

The Berryville Town Council held one Public Hearing on February 14, 2006 in the Town Council Chambers at 15 E. Main Street, Berryville, Virginia.

The following were present:

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| Council - | Allan W. McWilliams, Recorder<br>Wilson Kirby<br>Lawrence Russell, III<br>Barry Nicholson<br>Allen Kitselman  |
| Absent -  | Richard G. Sponseller, Mayor  |
| Staff -   | Keith R. Dalton, Town Manager<br>Christy Dunkle, Asst. Town Mgr/Town Planner<br>Acting Chief Neal White, Police Department<br>Celeste Heath, Town Clerk |
| Press -   | Winchester Star: Suzanne Wilder<br>Clarke Courier: Claudia Bigelow  |

Recorder McWilliams called the public hearing to order to hear comments on the following:

**Taylor Bailey requests a Special Use Permit for a Home Occupation to operate a daycare at 14 Bundy Street.** Ms. Dunkle stated that the public hearing notice ran in the Clarke Times Courier on February 2, 2006 and February 9, 2006 (copy attached) and adjacent property owners were notified. No public comment was received in the town office.

Recorder McWilliams then asked for public comment on the matter. There was no public comment or questions from Council. The public hearing was closed at 7:30 p.m.

Ms. Dunkle said that the required fence has been installed. Mr. Dalton asked if there is adequate parking. Ms. Dunkle said that there is plenty of parking in the driveway of the residence.

It was moved by Council member Nicholson, seconded by Council member Kitselman and passed that the Council of the Town of Berryville approve a Special Use Permit to allow a Home Occupation home daycare business at 14 Bundy Street, identified as Tax Map Parcel number 14A2-((A))-12, zoned DR-4 Detached Residential with the following conditions:

1. Hours of operation are from 7:00 a.m. to 6:00 p.m. Monday through Friday with emergency hours as needed; and
2. A fence is maintained for the business.

Recorded Vote: Aye - Allan W. McWilliams, Recorder  
Wilson Kirby  
Lawrence Russell, III  
Barry Nicholson  
Allen Kitselman

Nay – None

Absent - Richard G. Sponseller, Mayor

**BERRYVILLE TOWN COUNCIL  
PUBLIC HEARING NOTICE**

The Berryville Town Council will hold the following public hearing at 7:30 p.m., or as soon after as the matter may be heard, on Tuesday, February 14, 2006, in the Town Council Chambers, 15 East Main Street, Berryville, Virginia to consider the following:

**Special Use Permit - Home Occupation**

**Taylor Bailey, Owner, is requesting a Special Use Permit for a Home Occupation in order to operate a daycare business at the property located at 14 Bundy Street, identified as Tax Map Parcel number 14A-2-((A))-12 zoned DR-4 Residential. SUP 05-03**

Copies of the amendment may be examined at the Berryville Planning Office, 15 East Main Street, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Assistant Town Manager Christy Dunkle at 955-4081. Any person desiring to be heard on this matter should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

Christy N. Dunkle, Town Planner

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF SPECIAL USE PERMIT

Date: February 14, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve a Special Use Permit to allow a Home Occupation home daycare business at 14 Bundy Street, identified as Tax Map Parcel number 14A2-((A))-12, zoned DR-4 Detached Residential with the following conditions:  
1. Hours of operation are from 7:00 a.m. to 6:00 p.m. Monday through Friday with emergency hours as needed; and  
2. A fence is maintained for the business.

VOTE:

Aye: Allan W. McWilliams, Recorder  
Wilson Kirby  
Lawrence Russell, III  
Barry Nicholson  
Allen Kitselman

Nay: None

Absent: Richard Sponseller

ATTEST:

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Allan W. McWilliams, Recorder

Recorder McWilliams called the TOWN COUNCIL MEETING to order at 7:34 p.m.

On motion by Council member Nicholson, seconded by Recorder McWilliams and passed, the minutes of the Council meeting of January 10, 2006 were approved.

Recorded Vote:       Aye – Allan W. McWilliams, Recorder  
                            Wilson Kirby  
                            Allen Kitselman  
                            Barry Nicholson  
                            Lawrence Russell, III

Nay – None

Absent – Mayor Richard G. Sponseller

### **Citizen's Forum**

There was no citizen comment.

### **Proclamation – disAbility Awareness Week**

It was moved by Council member Kitselman, seconded by Recorder McWilliams to adopt the attached proclamation declaring April 21 to 28, 2006 disAbility Awareness Week.

Recorded Vote:       Aye – Allan W. McWilliams, Recorder  
                            Wilson Kirby  
                            Allen Kitselman  
                            Barry Nicholson  
                            Lawrence Russell, III

Nay – None

Absent – Mayor Richard G. Sponseller

### **Planning and Community Development Action Items –**

#### **Set Bonds – Shenandoah Crossing**

Ms. Dunkle explained that the applicant's engineer is requesting that Council set bonds for erosion and sediment control and public improvements for Shenandoah Crossing. Adam Hayes from D.R. Horton was present representing the applicant. She said that View Engineering has reviewed the submission and that they recommend the bond amount as \$162,120 for erosion and sediment control and \$6,512,000 for public improvements.

Mr. Dalton asked if with the recent changes in property developers if these bonds will cover the improvements to Weeks and Fairfax Street. Ms. Dunkle said that the E&S figures cover that area but not the public improvements amount. Ms. Dunkle said that the developers intend to use a temporary access through the site. Mr. Dalton said he would advise against setting a bond for public improvements in that case.

Proclamation  
disABILITY AWARENESS WEEK

WHEREAS, the United States Congress enacted the Americans with Disabilities Act in 1990, prohibiting discrimination against people with disabilities in employment, public accommodations, transportation and telecommunications; and

WHEREAS, the Commonwealth of Virginia enacted the Virginians with Disabilities Act in 1985 to assure equal opportunity to persons with disabilities in the Commonwealth, and it is the policy of this Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and engage in remunerative employment, and

WHEREAS, people with disabilities often overcome common misunderstandings about their circumstances and make valuable contributions to their families and communities; and

WHEREAS, disability is a natural part of the human experience, and individuals with disabilities deserve the same rights as their peers to live independently, enjoy self-determination, make choices, contribute to society and participate fully in the American experience; and

WHEREAS, family, friends and neighbors play a central role in enhancing the lives of people with disabilities, and people with disabilities benefit from having a network of supportive friends and family, accommodating employers and community leaders who are aware of the needs and abilities of Virginians with disabilities; and

WHEREAS, millions of people in the United States have disabilities, and with the increasing age of our population, Virginians and Americans must learn more about the special needs and abilities of this growing population; and

WHEREAS, agencies and organizations throughout Virginia participate in disability awareness programs during disAbility Awareness Week to enhance public understanding of and appreciation for the limitations and abilities of people living with disabilities;

NOW, THEREFORE we The Town Council of the Town of Berryville, do hereby proclaim the week of April 21 - 28, 2006 as DISABILITY AWARENESS Week, and we call this observance to the attention of all our citizens, and we urge all residents to honor this occasion.

DATED: February 14, 2006

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Richard G. Sponseller, Mayor

It was moved by Council member Kirby, seconded by Council member Russell and passed, to approve the request to set the Erosion and Sediment Control bond for \$165,120 for Shenandoah Crossing per View Engineering's recommendation.

Recorded Vote: Aye – Allan W. McWilliams, Recorder  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Mayor Richard G. Sponseller

### **Reduce Bonds – Darbybrook**

Ms. Dunkle explained that the applicant is requesting a bond reduction for the Darbybrook subdivision. View Engineering has recommended a bond reduction to \$92,345.

Council member Nicholson asked if there had been a discussion with View about his concerns with inflation and using production numbers for non production events. Ms. Dunkle said that she talked to Rick Travers but that she can have a further conversation.

Council member Nicholson said that if people don't get bond work done quickly we should raise amounts if we legally can. He said that this issue should be studied. Council member Kitselman said that we may want to factor in inflation and set higher bonds. Ms. Dunkle asked if the Council wants to change the bonding standards in the zoning ordinance. Council Member Nicholson said that staff should investigate if a change is necessary. Mr. Dalton said that staff can have the Town's attorney look at the issue.

It was moved by Council member Kitselman, seconded by Council member Nicholson and passed, to approve the request to reduce the bonds for the Darbybrook subdivision from \$1,722,800.00 to \$92,345.00 per View Engineering's recommendation.

Recorded Vote: Aye – Allan W. McWilliams, Recorder  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Mayor Richard G. Sponseller

Ms. Dunkle said that the next request regarding bonds for seven rezoned lots in Darbybrook can wait until the next meeting. The Council deferred to her recommendation.

### **Report of Town Manager, Keith R. Dalton**

#### **www.berryvilleva.gov**

Mr. Dalton reported that the Town's website, [www.berryvilleva.gov](http://www.berryvilleva.gov) will be operational on February 15, 2006. Celeste Heath presented the site to the Council and explained that it was created using content management software from Wise Online Services, a company located in Berryville and that it will be used as a means of communication with the citizens of Berryville.

#### **Berryville Clarke County Joint Administrative Building Schedule**

Mr. Dalton reported that he went before the Board of Supervisors on February 13 and would like to present a project schedule at their next meeting on February 21. He said that it is important to establish dates to move ahead on the project. He presented a schedule of suggested approval dates for schematic design, design development and construction document review. He noted that the Board of Supervisors seemed amenable to the concept of a schedule and to these dates in particular. He said that he is looking for a motion from the Council stating that they will work with the Board of Supervisors.

There was a discussion of the review process. It was decided that the Council would like to attend the Board of Supervisor's meeting on February 21 at 2:00 p.m. to hear the presentation by the architect of the new building and would then like to hold a joint public hearing with the Board of Supervisors to allow the public to view the design.

Mr. Dalton said that he would re-work the schedule and present it to the Board of Supervisors and the Town Council at the meeting on February 21.

#### **Clermont Farm**

Mr. Dalton said that the Clermont Farm was left to the Department of Historic Resources. The trustees for the property are requesting permission to connect to the Town's water supply. This water would be used for cattle. Because the property is out of town, the Council would have to approve such a connection.

Mr. Dalton said that because there is little use on the there may be water quality issues for human consumption but not for cattle. He said that he recommends that the Council makes it clear that this is not a guaranteed connection and that this is for agricultural purposes only. He also recommended that no availability fees are charged.

Council member Nicholson said he is fine with this as long as they have cross connections. Mr. Dalton asked if a setter with backflow prevention would work. Council member Nicholson said that they should have an air gap if they are filling tanks.

The Council agreed to address the issue at the next council meeting.

### **Private Lane Near Rose Hill Park**

Mr. Dalton said that he has received a request to name the lane that accesses the rear of Rose Hill Park. He said that there was an emergency call there and that there was a problem finding a house that is located on the lane. Council member McWilliams suggested that Royston Lane after Pamie Royston might be appropriate. The Council then set a public hearing on the matter for their next regular meeting on March 14, 2006.

### **Rixey Moore Parking Lot**

Mr. Dalton reported that Food Lion has prohibited commuter parking and that has created a problem in the Rixey Moore parking Lot. He said that commuters are now using a significant amount of spaces and that this has displaced those that the lot was built for, employees and patrons of local businesses. He said that he spoke to the Towns' attorney and that he suggested an amendment to the Town Code that would limit parking in the lot to no more than 9 hours.

There was a discussion regarding enforcement. Mr. Dalton said that tires will be chalked and that a sign would have to be erected noting the 9 hour limit.

It was moved by Council member Nicholson, seconded by Council member Russell amend the Town of Berryville Code of Laws to add Section 10-65 Parking Restrictions in the Rixey Moore Parking Lot as follows:

- a) All vehicles shall be parked within designated parking spaces only. No vehicles may be parked in a manner that occupies more than one parking space. Parking in the travel way or in landscaped areas is prohibited.
- b) No vehicle may be parked for a period exceeding nine (9) consecutive hours.
- c) Any violation of this section shall be punishable by a fine of \$ 25.00 and the vehicle subject to towing at the owner's expense.

Mr. Kirby asked if this applies only to the Rixey Moore Parking Lot.

Recorded Vote:       Aye – Allan W. McWilliams, Recorder  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Mayor Richard G. Sponseller

### **Construction Trash and Debris**

Mr. Dalton explained that a County resident has complained about construction trash leaving construction sites. He said that he walked the properties in questions with a police officer and while there was some trash it was not as dramatic as the complaint. He said that he and Ms. Dunkle will research the Town Codes to see what they say on the matter.



## **Water and Sewer Availability Fees**

Mr. Dalton presented the minutes of the Street and Utilities Committee. He said that the committee reviewed the water and sewer availability fees. View Engineering has also reviewed the cost of the new wastewater plant and outfall line. He said that the review revealed that the cost has risen sharply. He then presented new recommended fees for water and sewer availability fees.

Council member Nicholson said that the availability fee for water has been based on the capacity of the water plant but if we are limited by the capacity of the sewer plant isn't that truly the water cap.

The Council then set a public hearing for Tuesday, March 14<sup>th</sup> regarding a proposed increase in Water and Sewer Availability Fees.

## **Other**

Council member Kitselman said it is time to start pressing the issue of derelict buildings on Main Street. He said the building next to Mario's has shingles blowing off it and the plate glass window is broke. He said that staff should talk to counsel and see what the next steps to remedy this situation are. Council member McWilliams agreed with Council member Kitselman. Mr. Dalton said staff would move forward with this by sending a letter to the property owner. Council member Kitselman said that perhaps the Council can look at a maintenance ordinance.

## **REPORTS OF STANDING COMMITTEES**

### **a. Police & Security - Allan W. McWilliams, Chair**

Chief White presented the department's year-end report. He said service calls were up for mostly property related crimes. He said that traffic summonses are up 40% and that criminal arrests are up 7%. He said that the department received a grant to install in-car video and that they are being installed.

### **b. Community Improvements – Barry Nicholson, Chair**

Nothing to add.

### **c. Streets & Utilities – Barry Nicholson, Chair**

It was moved by Council member Kirby, seconded by Council member Nicholson to approve the Streets and Utilities Committee minutes for the meetings of January 18 and February 8, 2006 were unanimously approved.

Mr. Dalton briefly discussed the road improvement priorities to be forwarded to the County.

### **d. Planning Commission Liaison - Lawrence Russell, Chair**

Nothing to add.

### **e. BADA Liaison**

Nothing to add.

### **f. Personnel/Appointments – Richard Sponseller, Chair**

Nothing to add.

g. Budget/Finance/CIP - Allan W. McWilliams

Recorder McWilliams reported that revenues are at 40% and expenses are at 22.5%. He said that work begins on next year's budget begins this month.

There being no further business, on motion by Recorder McWilliams, second by Council member Kitselman and passed the Council meeting was adjourned at 8:14 p.m.

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Richard G. Sponseller, Mayor

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Allan W. McWilliams, Recorder